

REMARKS

The Office Action mailed August 21, 2008, and the prior art newly applied therein, have been carefully studied. The claims in the application are now claims 2-7, and these claims define patentable subject matter warranting their allowance. Favorable reconsideration and allowance are earnestly solicited.

Applicants respectfully note for the record that the two applied references were cited in the first Office Action, but were not applied. In that Office Action, it was held that claims 2 and 3 were patentable over such prior art, in spite of what the examiner at that time held to be improper "negative limitations". Applicants further note that the two references applied for the first time in the Office Action of August 21, 2008, appear to have conventional seats which would contain zigzag springs.

Claim 3 has been rejected under the second paragraph of Section 112 as containing a so-called "negative limitation." The rejection is respectfully traversed on the basis of MPEP 2173.05(i), which states in part as follows:

The current view of the courts is that there is nothing inherently ambiguous or uncertain about a negative limitation. So long as the boundaries of the patent protection sought

are set forth definitely, albeit negatively,
the claim complies with the requirements of
35 U.S.C. 112, second paragraph.

The claims are absolutely clear and understandable and the
rejection is unjustified.

Withdrawal of the rejection is in order and is
respectfully requested.

New claims 4-7 have been added. These depend from
and incorporate the subject matter of the main claims 2 and 3,
and are therefore patentable **at least** for the same reasons as
claims 2 and 3, as pointed out below.

Claims 2 and 3 have been rejected under Section 102
as anticipated by each of Rupiper et al USP 6,773,049
(Rupiper) and Ritchie et al USP 6,371,456 (Ritchie). These
rejections are both respectfully traversed.

As pointed out above, claims 2 and 3 as originally
drafted were found to be patentable over both Rupiper and
Ritchie, and applicants believe that this was so because of
the examiner's recognition that both of these prior patents
appear to show conventional seats above their respective
movable plates, and that these conventional seats would
inherently contain zigzag springs. Applicants respectfully
submit that the examiner was previously correct and is more

recently wrong, and that the rejections should be withdrawn on the basis of that distinction alone.

Further in this regard, it is noted that an object of the present invention is to provide a relatively uncomplicated mechanism, i.e. a simpler construction, and thus a thinner seat bottom, as stated in paragraphs [0005] and [0006] on page 2 of applicants' specification. It is abundantly clear that both Ritchie and Rupiper have complicated constructions and thick seat bottoms.

Nevertheless, applicants' claims have been further amended above. Claim 2 specifies that the spring and viscous material damper are concentrically disposed. Claim 3 specifies that the upper connector of the cushioning mechanism is connected to the movable plate near the rear end of the movable plate, and to the lower connector near the front end of the base frame contrary to Rupiper and Ritchie.

Thus, Rupiper shows in Fig. 4 that the coil springs are in one location and the dampers in an entirely different location. Also see Fig. 1 of Ritchie where the spring 170 is located in a position quite different from that of the damper 200.

As regards the aforementioned distinction recited in claim 3, it is clear in both Rupiper and in Ritchie that the

springs and dampers are oriented in a direction opposite to that recited in claim 3.

Accordingly, it should be clear that neither reference discloses the features recited in claims 2 and 3, whereby neither Ritchie nor Rupiper anticipate any of applicants' claims.

Applicants further believe and respectfully submit that the dependent claims add additional features which are novel in the context of the claims 2 and 3 from which such subsidiary claims depend.

Withdrawal of both rejections is in order and respectfully requested.

No rejections have been imposed under Section 103, and applicants agree that the claims would not have been obvious from either Rupiper or Ritchie, or any other prior art insofar as is known. There is nothing in Ritchie or Rupiper which would have made it obvious to make the modifications in the devices disclosed in those patents to reach applicants' claimed subject matter, and no reason to do so.

Applicants believe that they have addressed all issues raised in the Office Action whereby the rejections

Appln. No. 10/574,486
Amendment dated January 21, 2009
Reply to Office Action dated August 21, 2008

should be withdrawn and the claims allowed. Such are
respectfully solicited.

Respectfully submitted,

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By

A handwritten signature in dark ink, appearing to read "S. Neimark", written over a horizontal line.

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